

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRAVIS J. MEGINNISS, O/B/O
MARIE L. MELLAND (Deceased),

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

Case No. C12-1123-RAJ-JPD

REPORT AND RECOMMENDATION

This matter comes before the Court upon the parties' stipulated motion to remand this case for further administrative proceedings pursuant to sentence six of the Social Security Act, 42 U.S.C. § 405(g). Dkt. 12. Sentence six of 42 U.S.C. § 405(g) provides that "the court may, on motion of the Commissioner made for good cause shown before he files his answer, remand the case to the Commissioner for further action by the Commissioner of Social Security. . . ."

The Court finds that the parties have demonstrated good cause for a remand pursuant to sentence six in this case. Specifically, the parties assert that the Appeals Council failed to consider certain materials relevant to the instant case, because although the materials were timely received, they were not associated with the file until after the Appeals Council's notice dated May 2, 2012 had been issued. These materials include the following: (1) an attorney's

1 letter dated April 23, 2012; (2) a March 11, 2011 psychological evaluation of Ellen Walker
2 Lind, Ph.D., (5 pages); and medical records of Sea Mar Community Health Center dated
3 between December 29, 2010 and October 27, 2011, which include copies of discharge records
4 from St. Joseph Hospital (32 pages). The Appeals Council also failed to consider a follow-up
5 letter dated May 11, 2012 from plaintiff's attorneys. Finally, the parties assert that "the Appeals
6 Council [also] notes that the claimant's death certificate indicates that she passed away on
7 November 12, 2011, due to complications of Type I Insulin-Dependent, Diabetes Mellitus,
8 which the Administrative Law Judge found severe." Dkt. 12 at 1-2.

9 Based on the stipulation of the parties, the Court recommends that this case be
10 REVERSED and REMANDED for further administrative proceedings pursuant to sentence six
11 of 42 U.S.C. § 405(g). Upon receipt of the Court's Order, the Appeals Council shall consider
12 the additional material and enter it into the record. The Appeals Council shall consider the
13 plaintiff's request for review again pursuant to HALLEX I-3-5-50A (Appeals Council Receives
14 Additional Evidence After Denial Request of Request for Review) and I-4-1-25C (CCPRB
15 Analyst Review). Finally, the Appeals Council shall determine whether the claimant's death
16 was, in part, related to her severe impairment. Plaintiff and plaintiff's attorneys shall be
17 notified of the Appeals Council's action, and of their further rights with respect thereto.

18 DATED this 19th day of November, 2012.

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21 JAMES P. DONOHUE
22 United States Magistrate Judge
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